

Session, by himself.

Self-defence is one of the first and most evident Principles by the light of Nature. Revelation has made it yet more evident, that we not only may, but must, defend our Live and Fame against all Invasions thereon; for these are not in our power, that we may take them away, or suffer them to be taken away, except in the way of Justice, but they are intrusted to us by God, to be defended in all lawful ways we can. Assassination against Mens Lives is a most cruel Crime, striking at the very Root of Humane Society and safety, being so sudden and unexpected, as it cannot be prevented, and hardly evited; yet it is more difficult to prevent or evite an Assassination of Fame. For an Assassin of life can much more easily be found out, and punished, than an Assassin of Fame, who by Anonymous and unanymous Libels, may much more securely wound the Reputation, than he Body; and therefore Defamation, especially by infamous Libels, is by the Law of the *Romans*, and all other Civil Nations, accounted and punished as a most atrocious Crime; infamous Words cannot be so easily propagated and continued, as infamous Libels. *Litera scripta manet.*

I hope, that you will blame me, for vindicating my Fame and Reputation, from the false and calumnious aspersions, wherewith I am endeavour'd to be branded, with the most infamous Libels; in an Anonymous Pamphlet, Entitled, *The last Proceedings and Acts of the Parliament of Scotland, contained in an Address delivered to the King, Signed by the Majority of the Members thereof, Stand and Pindined.*

This Pamphlet bears, to be Printed at *Edinburgh*, which is false, for it was Printed at *London*, as the Tenor of it importeth, speaking of things done at *London*, as done *Here*, which could not be sense, applied to *Edinburgh*, or to *Scotland*, but to *London*: It doth contain a *Rapport* of false and ignorant Aspersions, and Reproaches against the King, and all he had then intrusted in His Service. Your Malice or Avarice had prevailed to have another Impression at *Edinburgh* (for a Satyr it sell well) if it had not been discovered and hindered by the Privy Council, whereupon the Printer was Imprisoned, and a Committee of the Council appointed to consider the same, in order to a Censure; But the Parliament approaching, the Vindication of the King, and the Censure of the Authors and Spreaders of this infamous Libel, will be most proper there, the expectation whereof, hath made several Answers to it, ready for the Press, to be forborn.

But being it is most venomous against me, though at first, I did neglect and contemn *Libra scripta vilis est*, yet finding, that it is industriously spread, and most aggravated against me, and Commentaries made upon the general aspersions in it, I judged it my duty to Apologize for my self, lest these that knew no better, might think I was self-condemned, and could not answer, being conscious of the guilt I was charged with.

The sum of all that is charged against me, is, That I have been a Changeling, appearing at first against Tyranny and Arbitrary Government in the Reign of K. *Ch. 1st*, and then turning for the same things in the Reign of K. *Ch. 2^d*, and all under the Masque of Religion, and having betrayed my Country, in accepting to be President of the Session, upon the King's nomination, contra to the Act of Parliament, by which the President of the Session is to be chosen by the Lords; and that I was concurring in all the evil things were done during the Duke of *Lauderdale's* Ministry, against the suffering

Presbyterians for their Conscience, as being either *Assessors*, *Assistants* in, or ready to justify those *doings*; and to no man was more stained and dyed with blood and Oppression than I, and that the Reverend *Mr. Robert Douglas* did threaten or foretell Judgment to me and my Family, and that the Decisions of the *Long of Session* which I have published, were obnoxious to the *Oracles of Delphos*.

I do not intend to make *Panegyrics* in my own praise, but only, plainly and ingenuously to declare the matter of Fact, as in the sight of God, who only is Judge of the Heart, and knoweth intirely, who are *Hypocrites*, acting under the *Mask* of Religion, and who are not; yet this Libeller is so bold, as to conclude me an *Hypocrite*, acting under the *Mask* of Religion, which he cannot know; and yet he, both confesses, that I did begin to act for Liberty, and in a way that appeared to be Religious; and he can as well know, what I was the Author of, when I was not the Actor, and far less, what I was ready to justify, unless he had shown that I had justified that which was wicked, which his general Aspersions of course can never do, unless he had been a *Witness* himself, in which case, his Malice would not have rested in generals, which are ever accounted calumnious, but would have been particular, at least in some eminent Acts; and yet there is but one particular against me in all his bitter Libel, to wit, that I accepted to be President of the Session, on the King's Nomination, which upon his own Assertion only, he pretends to be the betraying of the Nation, but whether it be groundless or not, will appear by what follows.

This also is obvious, that all his malice has not prevailed with him to asperse me with any thing that concerns my special Trusts as *Senator* of the *Colledge of Justice*, wherein I continued more than Ten Years, or as Resident of it, wherein I continued above Ten Years more; and, if he be not ignorant of *Scottish Affairs*, cannot but know, that immediately after the Parliament 1601, where being a Member, I was forward for the preservation of the *Protestant Religion*, and so preventing the incoming of *Papery* in the view of a *Papish Succession*, and in the publick Debate in Parliament, my Reasons prevailed to exclude all from Publick Trust, who did not Swear to maintain the *Protestant Religion* according to the Confession of Faith of the Church of *Scotland*, made at the time of Reformation, Approven and recorded in Parliament, without leaving it to the indefinite Name of the *Protestant Religion*; which the then Duke of *Tork*, did the very Night that Act passed, declare to the late Earl of *Argyle*, that I had ruined all honest Men, (meaning *Papists*) by bringing in the Confession, as *Argyle's Case* published by himself in Print beareth; whereupon, there was immediately a Commission to the *Lords of Session*, leaving me out, without the least pretence of reason, or any order of Law, but against the known Law of the Kingdom, whereby the *Lords of Session* have their place *ad vitam aut culpam*, which is the great Security of the People, that their Judges are not under Temptation, to be overruled by fear of being thrown out at pleasure. That Quarrel, with my freedom to the then Duke, at his first coming to *Scotland*, against attempting to weaken the *Protestant Interest*, in a publick Speech I had at his Entry, made me to be the first person laid aside that ever was looked after. I was Cited before the Criminal Judges, before the Council, before the Parliament, and Hundreds of Examinations and Re-examinations, were taken against me, even of my most intimate Domestick Servants, and my Sisters-in-Law, not in the regular way for Probation, but by way of Inquisition to found a Process, upon any spe-

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cial Matter, which was never done, because nothing was said against it. I can say
Judge in *Christianity*, that such a trial of Integrity, who did so long a time for such
such an eminent Station. His man was found to be the best of his Station, or Dis-
ciples, by indirect Interest to my Cause, by taking any Bias of Favour by Partiality
or Jealousy, though nothing would have been more acceptable to the Court, than
by one blow against my Fortune and Fame, to have ruined me upon Malver-
sation in my Trust as a Judge. It is a further Evidence of my Integrity, that though
I have been Forty Years in Publick Employment, yet I have not bought an Hundred
Round Sterling of Rent more than I have Sold, and when my Sons came to the House,
I did most strictly Prohibit them to Solicite me in any Case, which they did exactly
Observe, and may safely Declare is upon their Oaths, and it is known to many others,
that there might be no suspicion of their taking any thing on my security, but only
what was proper for those of their Station. For it is highly aggravated in this Pamphlet,
that the King restored me to be President of the Session, in the same time I was to sit on
my Pension, not being the half of what was given since I was removed, though my for-
mer Pension bore, to be during my Natural Life, and though I had cheerfully ad-
ventured, not only my Life and Fortune, but the Ruine of my Children, with the
King in His Expedition to *Brittain*, in the Winter Season in the Seventeenth Year of my
Age, with all the cheastfulness imaginable, which made His Majesty Express to which
Kindness to me, and Tenderneis of me, as did formerly breed me his small measure
of Envy.

To return then to my charge of being a Changeling, I was ever fully persuaded (since
I came to ripeness of Age,) of the Truth of the Protestant Religion, and of the Consti-
tution and Government of my Mother Church, and Prejudyce reformed from Popery,
though Prudence allowed me not at all times to make noise, whereof, yet I never
changed my Opinion till this day, but did live the same, both in my Practice and
Profession, to these I might use freedom with, and never disown'd it, or own'd the con-
trary to any Mortal. But my Judgment and Inclination never led me to use or approve
severity against these, who suffered for serving God in the way they were persuaded,
without Idolatry, or overturning the Principles of Religion, necessary for holiness and
happiness, so far I was from being the Author, or further of the severities used against
these of my own Persuasion, of whom many are my witnesses, that I did what I durst,
to save them, and I was always so effected, and often publicly reprov'd in Council,
for so doing. I did never meddle in any Criminal Court, nor was I ever Judge, Pleader,
Jury, or Witness therein, and in the Council, I did frequently declare my Judgment,
that though in other Courts, the Judges were oblig'd to follow the Law, although
rigorous, yet the Council, to whom the Policy and Government of the Nation is com-
mitted by the King, was oblig'd to apply the Principles of the Law, but as they
judged it as well prudent as just, I did often publicly declare my judgment against
a Lawe produced from *St. Charles* making it of Capital and Criminal Punishment in
relation to Ecclesiastick Affairs, and to arbitrary pains and penalties, that
thereupon persons accus'd might be helden or censur'd, (and I ever judg'd) that no
man is oblig'd to confess, or that which is no otherway proven against his Life or Fame.
I did also oppose the enervating of all our Judicatories upon pretence of an accumulative
Power, & the encroachment upon the privilege of the Royal Burrows, in the *Parl.* 1687.
Let then my Unfreinds be my Judges, if it be a just Assertion or Inference, that none was

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more stain'd with Blood and Oppression than I, my opposition to the course of the Time doth appear by the *Narrative of the Plot*, approv'd in the Parliament 1685.

As to the matter of Civil Government, since I was capable to consider the same: I have been ever perswaded, that it was both against the Interest and Duty of Kings, to use Arbitrary Government, that both King and Subjects had their titles and rights by Law, and that an equal ballance of Prerogative and Liberty, was necessary for the happiness of a Common-wealth. I have fully express'd my judgment therein, in a Treatise, (which when published,) I hope will not be unacceptable to so Gracious and Moderat a PRINCE as we now have, nor to the People: I never gave an other impression to any of our Kings, whereof I trust our present King will bear me witness, and though some have been suspicious, that I have given ill Characters of them, or hinder'd them from such places or Preferments as they aimed at; yet he knows that at home and abroad, I have given favourable Characters of many, but evil Characters of none, not that I was afraid freely to tell him the Truth, if he had required it, but he did not, for he had abundance of that stuff from other hands, and much more than was acceptable to him.

To shew how little I have been a Changeling, or Time-server, it is commonly known, and there are hundreds can witness, that I was excluded from the Bar for not taking the Usurpers Tender, engaging to be faithful to the Common-wealth of England without King or House of Lords, and never appeared again till that Tender was laid aside; And though thereafter I was made a Judge, supposing I would be as acceptable to the Nation as any, yet I did not embrace it, without the approbation of the most eminent of our Ministers that were then alive, who did wisely and justly distinguish between the Commissions granted by Usurpers, which did relate only to the People, and which were no less necessary, than if they had prohibit Baking or Brewing but by their warrant, and between these which relate to Councils for establishing the usurped Power or burdening the People, and therefore, though I was much invited, I never embrac'd a Commission to any of their pretended Parliaments, or Councils of State; And I know that the King allowed his friends to accept such Commissions as were necessary for preserving his People, and therefore when he was restored, I was one of the Senators of the Colledge of Justice in the first Nomination. But when the Declaration was Enacted by Parliament, required of all in Publick Trust, I did rather renounce my place than take it, and did retire unto the Countrey, where I lived a Year privatly and quietly, but without my desire or expectation, K. Ch. called me to London, and desired me to return to my Station in the Session, and when I told him I could not sign the Declaration, unless it were so explicat & restricted, that by the general Terms express'd in it, I did declare against no more, than what was opposit to His Majesties just Right and Prerogative, and that I should have these terms from His Majesty in Writing, which he granted, and I have yet to shew, which the Act of Sederunt at my Restitution doth import. And in the third place, when the late Test was enacted in the Parliament 1681, though I was well pleas'd with the first part of it, which was the safest Hedge against Papists, that ever I saw, yet I could not sign the latter part of it, and though it was not required to be Signed till January thereafter, yet many were so Zealous, as to Subscribe it within a few days after the Parliament. I did therefore go up to the King, to shew him that I could not take that Test, to desire Liberty with his favour to retire, but before I

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came, the new Commission for the Session, wherein I was left out, was past, so that I had no further to say: And therefore I neither did resign, nor was excluded by the Act of the Test, seeing the day was not come, but by meer Arbitrary Power. Whereupon I did retire to a private Life, and with assurance not to be disquieted therein; but when I found I was in continual suspicion, and that my Tennents were thrown in Prison, and forced to give Bonds on pretence of Conventicles, for more than they were worth, and that my Rents were arrested, I did ask the Advice of the then Kings Advocat, whether he thought I might be safe and free of imprisonment, he told me faithfully and friendly, that he thought not, and owned to the King that he had so advised me; Whereupon I was necessitate to retire unto *Holland*, the place of the greatest common safety, and yet there were frequent Addresses to the Prince and States to remove me out of their Provinces, and after I was gone, my eldest Son was fined in 500 pound Sterling, upon Claverhouse's pickish Accusation, that as Baillie of the Regality of *Glen-Luce*, he had fined too low for Conventicles, and thereafter, He was taken summarly without citation, and brought to the Tolbooth of *Edinburgh*, as if he had been a Malefactor, and detained three Months, and then let go upon Bond of Confinement, without shewing the least pretence of a Cause, though he had never meddled in any publick matter, but had served in good Reputation and imployment as an Advocat.

Let my enemies then, show how many they can instance in the Nation, that did thrice forsake their station, though both Honourable and Lucrative, rather than comply with the Corruption of the time, or Sign any thing wherein they had not clearness of Conscience, as I have done, who quite my station for the Usurpers Tender, and for the Declaration, and Test; It is true, many were free of all these, but few deserted such stations as I was in, for them all. If these be consistent with being a Proteous, or a Changling, I leave it unto any just person of Judgment, or Discretion to judge.

As to the pretence of my subserviency to the Duke of *Lauderdale*, during his Ministry in the evil things then done, beside that it is general and calumnious, without an instance given, and that it may be charged against all that were in the Government, during the most part of the Reign of K. *Charles 2d*. It may be Redargued by clear Instances and Evidences in the contrary: I shall not load the memory of the Duke of *Lauderdale*, who was most zealous for the Honour of his Countrey, but was over-ruled by Measures, laid before he came to his greatness, and by the difficulties he came to be in, upon the account of his favouring these called Phanaticks. He came to *Scotland* in the year 1677. And upon Representations made by me and others, he concurr'd in making several Acts of Council, Correctory of the abuses that then run, as particularly, That persons were cited for Church-disorders, without special circumstances of time or place; but generally in one or other of the days of all the months for several years, and were put to their Oaths upon the whole Libel, whereby many had been holden as confess, and thereupon Fined, Imprisoned, and Transported like Slaves to Forraign Plantations: Whereupon the then Arch-Bishop of *St. Andrews*, did represent to the Bishops in *England*, and to the Court, that he was overturning the Settlement of this Nation, and he likewise said, that in one Moneth after he came hither, he had put the King's Interest further back, than could be retrived in seven years. To make up which, he was instigated to bring in the Highland Host upon the West of *Scotland*, who treated them as enemies, not only by free Quarter, but by all insolencies, and oppressions, and
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to obtain an Order of Council to enjoy a Bond to be taken by all in publick Trust, and others in that Countrey, to delate, apprehend, and bring to Judgment all the Presbyterian Ministers that came ever in their power, that had kepted any Conventions: against both which, I did with all freedom and faithfulness dissuade him, and dissent; and I do not remember of any one person in Council, or Session, that could never be induced to subscribe that Bond, or to approve that Road, but my self. And when in the year 1679. several Complaints were made to K. Charles against Lauderdale and his Brother, which were published in Print, and whereupon K. Charles gave a publick audience, though I was there present, there was not the least insinuation against me.

As to the pretended obscurity of the Decisions of the Lords, published by me, it is like, the ignorance of Law of this Libeller, made them so to him; but I may say without vanity, that no man did so much, to make the Law of this Kingdom known and constant, as I have done, that not only bred Lawyers, but generally the Nobility and Gentry of the Nation might know their Rights; for I did carefully and faithfully observe the Debates and Decisions of the Lords of Session, during all the time I was in it, expressing mainly the Reasons that the Lords laid hold on, in all important Cases, which were not come to be controverted, as a beaten Path, or were obvious to common capacities; and I did seldom eat or drink, and scarce ever sleep, before I perused the Informations, that past every Sederunt day, and set down the Decisions of the Lords, (though sometimes not in the same Terms as they were marked by the Clerks, for at that time the Interlocutors were all upon their Trust, without being Revised and Signed by the President, as now they are,) while they were fresh in my memory, which were published in two Volumes, after my removal; but not being present at the time they were Printed, there are many escapes in Printing, but seldom is there any thing of the Sense unclear: And I did Write the Institutions of the Law of Scotland, and did derive it from that Common Law, that Rules the World, and compared it with the Laws Civil and Canon, and with the Custom of the Neighbouring Nations; which hath been so acceptable, that few considerable Families of the Nation want the same, and I have seen them a-vending, both in England and Holland. I was also the first Author, and prime promoter of that Order of bringing in Processes for every person, without exception, as they were ready, that the greatest man of the Nation could not have preference before the meanest, and that all might be free of uncertain attendances. Whereas before, all depended upon the Arbitrary Calling of the Lords as they pleased, so that every Judge might call his own Friends in his own Week.

I have been quarrell'd for being the Author of the Banishing of the Advocates from Edinburgh, in the year 1674. in the Harvest Vacation, which is taken notice of in the Grievances, as an incroachment upon them, done by the then Privy Council, whereof I was altogether free; for it was done in the Vacant time, when I was in the Countrey, and the inspection of the Sederunts of the Council will demonstrate, that in that whole Vacation, I was not present, yea, seldom was I present in any Vacation, and oft-times absent in Session time, especially when the Affairs of the Session required afternoon Meetings. God knows I had no pleasure in the Affairs that were then most agitated in Council.

As to the pretended Predication of Mr. Douglas, nothing can be more false, and calumnious, it is known to many, that Mr. Douglas did always express the greatest kindness, and

and respect for me, to his dying day; and his Relict (who is a Vertuous and Pious person, of a good Family; and lived long with him) hath testified the contrary, and offered to declare the same in the most solemn way could be required, and that he never spoke any thing to the prejudice of me, or my Family.

Remains now the only special Matter Charged against me, to wit, the acceptance to be President of the Session, by the King's Nomination, not being Elected by the Lords of Session. As to which, I shall give a plain and true Account of the Election of the President of the Session, from the Institution of the Colledge of Justice till this time. First, It is evidently the Institution of the Colledge of Justice, that the President of the Session was to be constant President, and not ambulatory or changeable. He was to be chosen by the King, which was suitable to His Royal Authority, to which the Judicial and Executive Power is most proper, and so the Nomination of all Judges: it did so continue without controversy till the year 1579, when there was a Correctory Law made, by the 93. Act of the 6. Part of K. J. 6 after the Demission of the Earl of Morton's Regency, & that the King had no power to appoint any being born in June 1565, bearing expressly, That the King should young men, without Gravity, Knowledge, or Experience, not having sufficient Learning of their own, upon the Session, and therefore common qualifications were prescribed, & it was Enacted, That all Warrants should be sufficiently signed & Countersigned by a number of the ordinary Lords, and in case that the person presented by the King were not found so qualified by them, it should be lawful to the Lords to refuse the person presented to them, & it is Declared, that the President shall be chosen by the whole Lords, of the Condition and Qualifications above-written, whether he be of the Spiritual or Temporal Estate, dispensing with that part of the Institution of the Colledge of Justice, bearing, that the President should be of the Spiritual Estate. At this time Bailie of Pannen was President of the Session, and continued to till the year 1593. By this Correctory Act, the presentation or nomination of the Lords be' ongerth to the King, and the Lords have power to admit, or refuse, as the person nominate were fit and qualified or unqualified.

After President Bailie's death, in the year 1593, the Lords lifted the Lords Urquhart and Menzies, and of that List choosed Urquhart to be President, he continued till the year 1605, and then was made Chancellor, and Secretary Elphinstone succeeded him; he continued till the year 1609, and then President Presmon was admitted; and after his death, the Lord Binning (afterwards Earl of Haddington) was President, and so continued till the death of King James: When King Charles the 1st came to the Crown, Haddington was made privy Seal, and Sir James Skene was by the King presented to be President, who died in the year 1633: but the manner of Election of these four Presidents doth not appear, not being extant in the books of Records. Upon the 1st of November 1633, Sir Robert Spotswood was Elected President upon K. Charles's Letter to the Lords, bearing, That as His Father and Himself were wont to do in the like Cases, He did Recommend the said Sir Robert to be President, so that by this Letter of K. Charles's it doth appear, that whatever be the sense of that Correctory Law about the way and manner of Electing the President by the Lords, yet that afterwards both K. James and K. Charles did recommend the person who was admitted President by them, President Spotswood continued President till the Troubles; and then in the rekindled Parliaments there was an Act, ordaining the Officers of State, Counsellors, and Lords of Session, to be named by the Parliament, but there was no mention of the election of the President, yet though the former Act annexed the election of a constant President were not repealed, the Lords did name their President every Session.

But at the Reformation of K. Ch. 2d, by the 2d Act of His 1st. Parl. in anno 1601, it is Declared, That it is an inherent Privilege of the Crown, and an undoubted part of the Royal prerogative of the Kings of this Kingdom, to have the sole choice and appointment of the Officers of State and every Counsellors, and the nomination of the Lords of Session, as in former times preceeding the year 1633. And by the 11th Act of the same Parliament, the acknowledgment of the King's Majesty's prerogative, doth resume the former Act in these Terms, Declaring, That it is an inherent Privilege of the Crown, and an undoubted part of the Royal prerogative of the Kings of this Kingdom, to have the sole choice and appointment of the Officers of State, Privy Counsellors, and Lords of Session; which explains, that by the nomination of the Lords of Session in the former Act, 1601 meant the Prelimination only, but the

the sole choice and appointment of them, who being qualified according to the Law, cannot be rejected, or refused to be admitted. According to that & other Acts, the King by His Letter recorded in Parliament, gives thanks to the Estates, for asserting His Prerogative, & Declares, that accordingly he had named His Officers of State, Counsellors, and the Lords of Session. In which nomination, being of the same date with His Majesties Letter fore said to the Parliament; and which Letter was presented in the Parliament February 27. 1681, being the same day that the Act asserting and acknowledging His Majesties Prerogative did pass, Sir John Gilmour was appointed President, & without any formality of List, Choosing, Tryal, or Admission by the Lords, continued constant President, till upon his indisposition he resigned; and upon his Resignation King Charles named me to be constant President, and I was accordingly admitted by the Lords, unanimously, by their Act of Sederant, Jan. 13. 1671 (which confutes the Impudence and Falshood of the Libeller's Proposition: that I was the first that came to be constituted President by the King, and illegally Obtruded upon the Lords of Session, without being either Chosen or Approved by them) and so continued till Sept. 1681. when by a new Commission to the Session I was left out, and Sir George Gordon of Haddo was therein nominated constant President, without any consent or choice of the Lords; And after he was made Chancellor, Sir David Falconer of Newmann, and after his death Sir George Lockhart of Carnwath were by the King's Letters named Presidents, and admitted in the same manner as I was; and from King Charles return till this last Session of Parliament, there was never the least scruple, motion, or question of any further requisite for the Legal establishment of the President of Session; albeit in the year 1674. much dislike was vented, and Parties started against the Session. And it is strange that the eminentest Lawyers that ever were of the Nation, could have been so incircumspect, as not to have a Legal establishment of their Title. So that it is plain that the Parliament 1661, was of the opinion of K. Ch. 1. That it was the King's Right, and that they had been in use to Name, Elect, and Recommend, as well the President, as other Lords of Session. And to conclude this Period I cannot omit to take notice, of the ignorance of the Libeller, who asserts, that all the Presidents since 1579. till the year 1661. were the Lord Proven, Urquhart, Carribill, Sir Ro. Spotswood & Lord Durie, though it be known to the least intelligent, that the Lord Balmerino Secretary, Preson of Pennicook, Collected General, and the Lord Binning Secretary, (stewards E. of Haddington) were successively presidents of the Session, after the Lord Urquhart, and before the Lord Carribill, but it seems he has industriously omitted the mentioning of them, lest they, being great ministers of State and favourites, their admission by the Lords might have been suspected to have proceeded upon the King's Recommendation, as well as mine; and the Lord Durie, was never chosen nor admitted constant president, but sometimes Vice-president in the absence of Carribill, and Sir Robert Spotswood, and after the year 1641. was sometimes chosen for a Session, as was the Lord Innerpeffer, Foderent, Balgonic, &c. But suppose it were as clear as the Light, that the King had neither right to Elect, Nominate, nor Present the President of Session, but had done it in all these cases without warrant; yet no man that hath the least knowledge of Law, can refuse, that the Disposition of him that hath no Right, with consent of him that hath Right, is a valid & sufficient Right, as if the Consenter had been Disposer, being his consent common to all Right he had when he did Consent; & therefore the Consent of the Lords to the King's Election, by their express Admission, leaveth no pretence of quarrel; & though the Vote of Parliament, declaring that the President of Session shall be Electd by the Lords, had then pass in an Act of Parliament, it could only revive the Act of Parliament 1579. & could but have Effect *ad futura*, & durst not declare any thing *ad preterita*, & so could not touch my Title, which had both the consent of the Lords in anno 1671 and renewed in anno 1681, as in the case of Richard Pender, who being admitted President by the Kings Nomination, did not by reason of the subsequent Correctory Law 1579, either cease to be President, or was of new elected, but by vertue of his former Admission continued till he died. And now after all this, I appeal to the Conscience of all just and unbiassed persons, if this Libeller hath any just pretence, that I have betrayed my Country by accepting to be President of the Session. I hope these that have charity, that men may aim at the service of God and their Country more than their own Interest, will not conclude that my Interest was the chief motive that made me refuse to be President, in my present circumstances: And it is known to many of eminent Qualities, that while Sir George Lockhart lived, I would neither desire nor accept of this Charge; nor had I any doubt, but that the King would have provided me as well as by it: Nor did I ever hear, that any number of these who were for a change, did propose a Person which were fitter, and would be commonly acceptable in my place.

Edinburgh, Printed in the Year 1690.